



CITY OF MEMPHIS

COUNCIL AGENDA

September 23, 2008

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (September 9, 2008)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

CONSENT AGENDA

GENERAL ORDINANCE - FIRST READING (None)

GENERAL ORDINANCE - SECOND READING

1. **ORDINANCE** amending Chapter 7-8, Article II, of the Code of Ordinances to update and amend regulations regarding the Sale of Beer for Off-Premise Consumption, up for S E C O N D reading.

Hedgepeth

Ordinance No. 5276

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCE - FIRST READING

2. **ORDINANCE** rezoning the east side of North Second Street, opposite of Pear and Plum Avenue intersections, containing 8.40 acres in the Heavy Industrial (I-H) District, up for F I R S T reading.

Hedgepeth

Ordinance No. 5279

Case No. Z 08-108

Applicant: Harbor View Properties, Inc.
Cindy Reaves, SR Consulting, LLC – Representative

Request: Mixed Use (MU) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

ZONING ORDINANCES - SECOND READING

3. **ORDINANCE** rezoning the west side of South Willett Street, 75-135 feet north of Monroe Avenue, containing 6,725 square feet in the General Office (O-G) District, up for S E C O N D reading.

Hedgepeth

Ordinance No. 5277
Case No. Z 08-103

Applicants: Leopold L. Brown, Lorraine Brown &
W. A. & Sarah Newsom
Tim McCaskill – McCaskill & Associates - Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on Second reading

4. **ORDINANCE** rezoning the south side of Raines Road; 600 feet west of Elvis Presley Boulevard, containing 0.48 acre in the Single Family Residential (R-S10) District, up for S E C O N D reading.

Hedgepeth

Ordinance No. 5278
Case No. Z 08-107
(Converted from U.V. 08-05)

Applicant: Tonjala Smith
Jim Kincaide – Representative

Request: General Office (O-G) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

5. **ORDINANCE** rezoning the northeast corner of Frayser Boulevard and Ardmore Street, containing 0.713 acre in the Single Family Residential (R-S10) District, up for S E C O N D reading.

Hedgepeth

Ordinance No. 5279
Case No. Z 08-106

Applicant: Demetrice Jones
David Bray – The Bray-Davis Firm – Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

ENGINEERING

6. RESOLUTION approving final plat of DEXTER WAY PD, AREA 'B', PHASE 2.
Case No. PD 02-236
Contract No. CR-5117

Resolution approves the final plat located on Dexter Road, west of Dexter Woods. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

7. RESOLUTION accepting BUCKINGHAM FARMS PD, PHASE 12, PARCEL O and authorizing release of bond.

Case No. PD 89-361cc
(Contract No. CR-3975)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of East Shelby Drive, 166 feet west of Meadow Cliff Drive. The standard improvement contract was approved on August 21, 1995. Resolution also authorizes the release of the letter of credit in the amount of \$34,100.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

8. RESOLUTION accepting STATE PLACE, PHASE 2 and authorizing release of bond.
Case No. SCB 04-018
(Contract No. CR-4951)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located between Georgia and Carolina, 833.11 feet east of Riverside Drive. The standard improvement contract was approved on June 21, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$158,000.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

9. RESOLUTION approving engineering plans of HIGHLAND HEIGHTS BAPTIST CHURCH MEDIAN MODIFICATION.

Contract No. CR-5119

Resolution approves the engineering plans located on the southwest corner of National Street and Faxon Avenue. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

10. RESOLUTION accepting MEMPHIS INTERMODAL FACILITY LAMAR AVENUE SEWER RELOCATION and authorizing release of bond.

(Contract No. CR-5076)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of U.S. Highway 78, North of John's Creek. The standard improvement contract was approved on June 5, 2007. Resolution also authorizes the release of the performance bond in the amount of \$339,500.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

11. RESOLUTION accepting CLEVELAND-LARKIN PLANNED DEVELOPMENT and authorizing release of bond.

Case No. PD 05-364

(Contract No. CR-5017)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the eastside of North Claybrook, north of Poplar Avenue. The standard improvement contract was approved on June 20, 2006. Resolution also authorizes the release of the Letter of Credit in the amount of \$41,700.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

12. NOTATIONS from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 08-303

Located in an area bounded by Poplar Avenue, Cleveland Street, Madison Avenue and McNeil Street, containing 28.06 acres in predominantly Multiple Dwelling Residential (R-MH), Neighborhood Commercial (C-N), Highway Commercial (C-H) and Medical Center Overlay

Applicant: WSG Memphis, LLC
Solomito Land Planning – Brenda Solomito – Representative

Request: Redevelopment with Mixed Commercial, Office and Residential Uses

LUCB and OPD recommendation: APPROVAL, with conditions

B. Case No. PD 08-320

Located on the northeast corner of Lamar Avenue and McLean Boulevard, containing 0.25 acre in the Highway Commercial (C-H) District

Applicant: Carolyn A. Glover
Dedrick Brittenum – Representative

Request: A planned development to permit two principle structures on one zoning lot

LUCB recommendation: REJECTION

OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: October 7, 2008



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MLGW FISCAL CONSENT

13. RESOLUTION awarding Contract No. 11278, Reroof Various MLGW Buildings at Six Sites, to B Four Plid, Inc. in the funded amount of \$465,834.00.
14. RESOLUTION approving Change No. 4 to Contract No. 9955, Partial Funding of Pollution Control/Ground Water Quality Control Program, with Memphis & Shelby County Health Department, in the funded amount of \$141,339.00. (This renews the contract for 2008.)
15. RESOLUTION approving Change No. 20 to Contract No. 10780, Outdoor Lighting, with Allied Electrical Contractors, LLC, in the funded amount of \$4,488,758.93. (This extends the contract for an additional term, October 1, 2008 to September 30, 2009, with a 3% increase in rates.)
16. RESOLUTION approving Change No. 1 to Contract No. 11186, Environmental Abatement Services, with General Construction Services, Inc. in the funded amount of \$1,000,000.00. (This covers cost of increased workload resulting from state regulatory inspections, potential exposure to adverse environmental impact, and reduction in available internal resources.)
17. RESOLUTION approving Change No. 1 to Contract No. 11195, Painting of Water Storage Tanks, with Bazan Painting Company in the funded amount of \$9,536.00. (This increases the unit price due to diesel fuel cost to operate equipment at Egypt Central and Raleigh Millington.)
18. RESOLUTION awarding 12-month contract for wooden dead-end assemblies to HD Supply Utilities in the amount of \$201,000.00.
19. RESOLUTION awarding contract for six step-voltage regulators to HD Supply Utilities in the amount of \$66,890.10.
20. RESOLUTION awarding contract for eight valve actuators to MIC Sales, Inc. in the amount of \$37,177.60.
21. RESOLUTION awarding contract for corporate network upgrade to Coleman Technologies, Inc. in the amount of \$578,834.76.
22. RESOLUTION giving contract authority to MLGW's General Counsel for claims settlement.



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REGULAR AGENDA

23. APPOINTMENTS
Flinn

Health, Education & Housing Facility Board

Reappointment

Monice Moore Hagler

Memphis Light, Gas & Water Commission

Appointment

Steven Wishnia

GENERAL ORDINANCE – THIRD AND FINAL READING

24. **ORDINANCE** to amend Title 6, Chapter 6-80, Article 7, Section 6-80-50 of the Code of Ordinances to establish a temporary fuel surcharge for the taxicab industry, up for T H I R D and F I N A L reading.

Hedgepeth

Ordinance No. 5275

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (None)

EXECUTIVE DIVISION

25. RESOLUTION accepting grant funds in the amount of \$7,000.00 from the State of Tennessee Department of Military/Tennessee Emergency Management Agency for the Memphis/Shelby County EMA. This is a provision of pass through funding to subsidize EMA's annual grant to provide subsidy to Memphis/Shelby County expenditures for LEPC. Resolution also amends the FY 2009 Operating Budget to establish and appropriate grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

26. RESOLUTION appropriating \$300,000.00 in G.O. Bonds General in CIP Project Number IS01007, Replace Obsolete Equipment. This project will provide funds to replace obsolete equipment and increase storage capacity on many of the City's workstations and servers.

Collins

ACTION REQUESTED: Adopt the resolution

FINANCE & ADMINISTRATION (None)

DIVISION OF FIRE SERVICES

27. RESOLUTION appropriating \$700,000.00 in G.O. Bonds from the Fiscal Year 2009 CIP Budget to purchase defibrillator/monitors for the Division of Fire Services for a total appropriation of \$700,000.00.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

28. RESOLUTION appropriating \$1,304,925.00 in G.O. Bonds from the Fiscal Year 2009 CIP Budget to purchase three (3) pumpers for the Division of Fire Services for a total appropriation of \$1,304,925.00.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

29. RESOLUTION appropriating \$200,000.00 in G.O. Bonds from the Fiscal Year 2009 CIP Budget to purchase Airmask System Units and Accessories for the Division of Fire Services for a total appropriation of \$200,000.00.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

30. RESOLUTION appropriating \$625,000.00 in G.O. Bonds from the Fiscal Year 2009 CIP Budget to purchase Fire Fighting Turnouts/Fire Protective Ensemble for the Division of Fire Services for a total appropriation of \$625,000.00.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF GENERAL SERVICES (None)

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

31. RESOLUTION appropriating \$3,500,000.00 funded by G.O. Bonds General within MHA-Dixie Homes, Project Number CD01033 for construction costs.

Ford

ACTION REQUESTED: Adopt the resolution

32. RESOLUTION appropriating \$4,000,000.00 funded by G.O. Bonds General within MHA-Lamar Terrace/University Place, Project Number CD01015 for infrastructure and construction costs.

Ford

ACTION REQUESTED: Adopt the resolution

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

MLGW DIVISION (None)

PARK SERVICES

33. RESOLUTION transferring ownership, operation and maintenance of Mississippi River Greenbelt Park from Shelby County and the Shelby County Conservation Board to the City of Memphis.

Strickland

ACTION REQUESTED: Adopt the resolution

34. RESOLUTION amending the FY 2009 Capital Improvement Budget by transferring \$54,000.00 funded by G.O. Bonds General, in Unencumbered Appropriation from Architect/Engineering to Construction and to appropriate \$54,000.00 funded by G.O. Bonds General in Construction.

Strickland

Council did include Overton Park Shell Restoration, CIP Project Number, PK 07083 as part of the FY 2009 Capital Improvement Program.

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES

35. RESOLUTION appropriating additional funding for Organized Crime Unit drug funds for Fiscal Year 2009 for the newly formed Interstate Criminal Interdiction Task Force in the amount of \$380,000.00.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

36. RESOLUTION accepting grant funds from the Shelby County District Attorney General's Office for FY 2007 Project Safe Neighborhoods (PSN) in the amount of \$100,000.00. Resolution also amends the FY 2009 Operating Budget to establish and appropriate \$100,000.00 in grant funds for the FY 2009 Fiscal Year.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES

37. RESOLUTION approving an option agreement with Metal Management, LLC for possible lease of certain property in Pidgeon Industrial Park, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on July 24, 2008.

Collins

Contract No. CR-5118

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC WORKS

38. RESOLUTION amending the Capital Improvement Budget by appropriating \$940,000.00 in G.O. General Bond Funds to Traffic Signals, Project Number EN01004 in Furniture, Fixtures and Equipment for the purchase of equipment used in the installation of traffic signals by City forces.

Morrison

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

39. RESOLUTION accepting additional Federal grant funds in the amount of \$1,142,088.28 from the Tennessee Department of Transportation for the Coordinated Traffic Signal System Year One Project to help relieve traffic congestion and related air pollution on Lamar Avenue in the City of Memphis. Resolution also amends the FY 2009 Operating Budget by adding these funds to the project (EN90003) and appropriates grant funds.

Morrison

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

40. RESOLUTION appropriating \$3,791,089.00 funded by G.O. Bonds General for Resurface of Streets 2009 – Group 1, Project Number PW01190 for a construction contract with APAC-Tennessee, Inc.

Morrison

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION appropriating \$232,878.00 funded by Sewer Funds for Rocky Woods Sewer Extension, Project Number SW03017 for a construction contract with Ensco, LLC to extend the sewer line.

Morrison

ACTION REQUESTED: Adopt the resolution

42. RESOLUTION appropriating \$220,000.00 funded by Sewer Funds for Concrete Replacement FY09, Project Number SW02077 for a construction contract with Wade Enterprises.

Morrison

ACTION REQUESTED: Adopt the resolution

43. RESOLUTION authorizing acquisition by condemnation or by purchase of property for improvement of Cedar Creek P.D. Sewer Extension, Plat 3 of 9, containing 11,040.82 square feet for a sanitary sewer easement and 26,434.32 square feet for a temporary construction easement over and across the property located east of Pisgah Road and north of Latting Road in Cordova Shelby County, Tennessee. Resolution provides that a total of \$12,300.00 be deposited with the Circuit Court Clerk, pending completion of the suit or settlement by the parties.

Morrison

Director of General Services, Public Works and City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

ZONING ORDINANCES – THIRD AND FINAL READING

44. **ORDINANCE** rezoning the east side of Quince Road; +/-60 feet north of Kirby Gate Boulevard, containing 5.878 acres in the Single Family Residential Flood Plain (R-S10{FP}) and Floodway (FW) Districts, up for T H I R D and F I N A L reading.

Hedgepeth

Ordinance No. 5273
Case No. Z 07-118
(Companion Case: PD 07-331)

Applicant: Wills and Wills L.P. (Walter Wills)
Fisher and Arnold (Jud Te Paske) – Representative

Request: Single Family Residential (R-S10) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

14 NOTICES MAILED ON SEPTEMBER 12, 2008

45. **ORDINANCE** rezoning the southeast corner of James Road and New Raleigh Road, containing 2.1997 acres in the Single Family Residential (R-S6) and Agricultural (AG) District, up for T H I R D and F I N A L reading.

Hedgepeth

Ordinance No. 5274
Case No. Z 08-105

Applicant: Romelius Kizer/PGBT, LLC
Frank P. Palumbo, Jr. – Doveland Engineering – Representative

Request: Rezone from Agricultural (AG) District to Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

31 NOTICES MAILED ON SEPTEMBER 12, 2008

DIVISION OF PLANNING & DEVELOPMENT

46. RESOLUTION approving a special use permit located on the south side of Monterey Road; +/-350 feet east of Collierville-Arlington Road, containing 3.95 acres in the Agricultural (AG) District.

Hedgepeth

Case No. SUP 08-219cc

Applicant: Spring Creek Ranch Club, LLC
Solomito Land Planning – Representative

Request: Golf swing analysis and fitting studio

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

PUBLIC HEARINGS

47. RESOLUTION approving a planned development located on the northwest corner of Houston Levee and Macon Road, containing 26.87 acres in an area currently governed by the Lee Line Farms Planned Development (PD 06-314cc).

Hedgepeth

Case No. PD 06-314cc

Appellant: Gray's Creek Association

Applicant: Wal-Mart Stores

Request: Uphold the appeal of the Gray's Creek Association and thereby reverse Land Use Control Board approval of a site plan for a proposed Wal-Mart Supercenter

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION, of the site plan

ACTION REQUESTED: Take whatever action Council deems advisable

70 NOTICES MAILED ON SEPTEMBER 12, 2008

48. RESOLUTION approving a planned development located on the east side of Quince Road, +60 feet north of Kirby Gate Boulevard containing 14.01 acres in the Single Family Residential Flood Plain (R-S10{FP}) and Floodway (FW) Districts.

Hedgepeth

Case No. PD 07-331
(Companion Case No. Z 07-118)

Applicant: Wills and Wills, L.P. (Walter Wills)
Fisher & Arnold (Jud TePaske) – Representative

Request: Reinstate P.D., formerly PD 97-353, to permit uses in the Townhouse Residential District and institutional uses such as an Assisted Living or a Nursing Home. This request includes a specific plan for a Hospice Facility in Area A

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

25 NOTICES MAILED ON SEPTEMBER 12, 2008

49. RESOLUTION approving a planned development located on the south side of Poplar Avenue; +/-670 feet west of Massey Road, containing 3.67 acres currently governed by Fleming's Steakhouse Planned Development (P.D. 04-374).

Hedgepeth

Case No. PD 08-321

Applicant: Poplar Station, LLC
Harkavy-Shainberg, PLC (Ronald Harkavy) – Representative

Request: Planned development to allow a one-story retail building 6,000 square feet in area within the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

34 NOTICES MAILED ON SEPTEMBER 12, 2008

GENERAL ITEM

50. RESOLUTION amending the City Council Rules of Procedure to designate sponsors of Council generated legislation on accompanying documentation.

Halbert

ACTION REQUESTED: Adopt the resolution

PRESENTATIONS AND RECOGNITION OF VISITORS

51. RESOLUTION commending the Memphis/Shelby County Port Commission on receiving the Memphis District's Outstanding Maintenance Award.

Fullilove

ACTION REQUESTED: Adopt the resolution

52. RESOLUTION honoring the Midsouth Food Bank in recognition of Hunger Action Month.

Ware

ACTION REQUESTED: Adopt the resolution

53. RESOLUTION commending Muhammad A. Ayesh for his heroic role in rescuing a citizen from an automobile accident.

Morrison

ACTION REQUESTED: Adopt the resolution

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ON

54. RESOLUTION reestablishing the City Hall Recycling Committee.
Strickland

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Through 11 – Approved
- 12A. Public Hearing Set for October 7, 2008
- 12B. Public Hearing Set for October 21, 2008
13. Through 34 – Approved
35. Held until October 7, 2008
36. Through 46 – Approved
47. Held until County Commission vote on this item
48. Approved
49. & 50 – Approved, as amended
51. Through 54 – Approved

ACTION TAKEN ON THE MINUTES OF SEPTEMBER 9, 2008 MEETING

Approved, as amended

ACTION TAKEN ON THE MINUTES OF ITEMS #22, #23 & #24 FROM TONIGHT'S MEETING

Approved